

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILFREDO RODRIGUEZ ORTEGA,

Defendant.

8:14CR304

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's "Motion for a Sentence Modification Pursuant to 18 U.S.C. 3553(f) Section 402 and 401 First Step Act of 2018," ECF No. 146.

Section 402 of the First Step Act, Pub. L. No. 115-391, 132 Stat. 5194 (2018), broadens the application of 18 U.S.C. §3553(f), commonly referred to as the "safety valve," which allows courts to impose sentences below statutory mandatory minimum terms. Section 402 includes the following language: "The amendments made by this section shall apply only to a conviction entered on or after the date of enactment of this Act." The Defendant pleaded guilty on July 6, 2015, well before the First Step Act took effect on December 21, 2018.

Section 401 of the First Step Act, which reduces or restricts enhanced sentencing for prior drug felonies, similarly has no retroactive effect unless a sentence had not been imposed as of the date of the enactment of the Act. The Defendant was sentenced on October 5, 2015. Therefore, Section 401 has no application to the facts and circumstances of the Defendant's sentence.

The Defendant received the statutory mandatory minimum term of incarceration for his offense, distribution of 50 grams or more of actual methamphetamine, and that statutory mandatory minimum term remains unchanged.

IT IS ORDERED:

1. The Defendant's "Motion for a Sentence Modification Pursuant to 18 U.S.C. 3553(f) Section 402 and 401 First Step Act of 2018," ECF No. 146 is denied; and
2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 4th day of February 2020.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge